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Special Civil Application No.2679 of 1982

Date of Decision: 24-7-95

For Approval and Signature:

HONOURABLE MR. JUSTICE M.R. CALLA

1. Whether Reporters of Local Papers may be allowed to see the judgment? No
2. To be referred to the Reporter or not? No
3. Whether Their Lordships wish to see the fair copy of the judgment? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any other order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

Mr.P.V.Hathi, learned counsel for the petitioners.

Mr.A.G.Uraizee, learned A.G.P. for respondent No.1.

No one appears for respondent No.2.

Coram: (M.R. Calla, J.)

Dt:24-7-95

ORAL JUDGMENT:

1. Petitioners herein, working as Junior Lecturers in different colleges affiliated to the South Gujarat University, aggrieved from the refusal of the State Government to award pay scale of Rs.700-1600 with effect from 1-1-73, filed the present Special Civil Application

on 3-5-82. The pay scale of Rs.700-1600 was in fact the pay scale prescribed for the post of Lecturer. It appears that in the year 1979 demand made on behalf of the Junior Lecturers was accepted to the extent of revising the pay scale from 1-4-77 and the only grievance which remained was that the revision should have been given effect to from 1-1-73 instead of 1-4-77.

2. During the pendency of the petition,an amendment was sought and in this amendment, the petitioners have come with the case that the pay scales of the Lecturers were revised pursuant to the recommendations of Mehrotra Commission appointed by the University Grant Commission and the State Government issued Resolution dated 14-9-88 revising the pay scale of the Lecturers with effect from 1-1-86. For the purposes of this revision, the services rendered by the petitioners prior to 1-4-77 in the pay scale of Rs.500-900 have not been taken into consideration. But later on, it was decided to take into account the services rendered by the petitioners prior to 1-4-77 in the ratio of five years services as Demonstrator-Tutor as equivalent to four years services as Lecturers and their pay scales are not fixed as per the said Resolution of 1988 in the pay scale of Rs.3700-5700 and this Resolution has been produced as Annexure "I". The petitioners have thus become eligible to count their services even in the lower post rendered prior to 1-4-77 and, therefore,the only grievance, which survives,is that for the purpose of this revision of pay scale why five years services as Demonstrator-Tutor is treated as four years only. The petitioner's grievance, as has been raised, has been thus substantially redressed and met with. So far as the difference of one year in counting the services rendered as Demonstrator-Tutor to be equivalent to that of Lecturer is concerned,it may be straightaway observed that even for the purpose of the pay scale of Rs.700-1600, the same was made effective in the case of the petitioners from 1-4-77 and,therefore,the entire period of service rendered prior to 1-4-77 can not be equated with that of the Lecturers as such and in the background of the entire services and the posts held by the petitioners and the scheme of the revision of the pay scales, it cannot be said that counting of five years service as Demonstrator-Tutor to be equivalent to four years service as Lecturer for the purpose of the revision of the pay scale is unreasonable, arbitrary or unjustified. The respondents have proceeded on the basis of reasonable classification, which does not warrant any interference.

3. The learned counsel for the petitioners has

relied upon the affidavit-in-reply, which has been filed by the Registrar of South Gujarat University. This affidavit-in-reply filed by the South Gujarat University is in relation to the grievance that certain employees of the M.S.University, Baroda were given the benefit of pay scale of Rs.700-1600 from the initial date and that the petitioners, who are employees of South Gujarat University, were also entitled to be treated alike. I have gone through this affidavit and the two documents enclosed therewith. Document Exh."B" enclosed with this affidavit-in-reply says that there were two persons, who are holding Bachelor's degree and were earlier Asst.Lecturers and they were given the benefit of Lecturer's pay scale i.e. Rs.400-950, which was later on revised to Rs.700-1600 as a special case by the Syndicate vide S.R.No.62 dated 26-8-72 on the recommendation of the Grade Revision Committee. These two employees, according to this document,were initially holding the post of Demonstrator, but their designations have been changed to that of Asst.Lecturers and on 18-3-72 itself it has been resolved by the M.S.University, Baroda that all confirmed Asst.Lecturers as on 1-4-72 be promoted as Lecturers with effect from 1-4-72. Thus, the case of these persons, about whom reference has been made by the South Gujarat University, Baroda, stands on an absolutely different footing in view of the fact that the M.S. University itself in that case had promoted them as Lecturers with effect from 1-4-72 and,therefore, if the benefit was given to them on that basis, the petitioners can not claim parity because such basis is wanting in their case. Further in para 3 of the affidavit it is clearly stated that in M.S.University, Baroda there were no posts of Demonstrator and Tutor and it was only in the case of two persons that the action of the University, in giving the benefit of Lecturer's pay scale, was approved and they were made Asst.Lecturers,although originally they were designated as Demonstrators, and thereafter,they are paid as Lecturers. Thus,it is clear that there is no similarity in the two isolated cases to which reference has been made in the affidavit-in-reply filed by the Registrar of South Gujarat University-respondent No.2 herein and the petitioners have failed to establish any parity with the two cases of M.S.University, Baroda, about which a reference has been made in the affidavit in reply filed by South Gujarat University.

4. Although no ground of any administrative difficulty has been pleaded or argued by the learned A.G.P. (as no reply whatsoever has been filed), the learned counsel for the petitioners has cited before me the Supreme Court decision in the case of P.Parameswaran

and others v. Secretary to the Government of India, reported in 1987 (Supp) Supreme Court Cases 18 and has submitted that assuming that the Government has a ground of administrative difficulty, the same can not come in the way of the petitioners. Firstly, it is not the case of the Government that it is on account of administrative difficulty that the pay scale is not given to the petitioners from the date as claimed by them. Secondly the matter has been examined on merits and the learned counsel for the petitioners has failed to make out a case for treating the full period of service rendered on the lower post to be at par to the fullest extent with the higher post, more particularly when the earlier revision of pay in favour of the petitioners was also granted from 1-4-77 and not from 1-1-73.

5. In this view of the matter, I do not find any substance in this petition and the same is, therefore, dismissed. Rule is hereby discharged. No order as to costs.